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## COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, D.C. 20515

SUBCOMMITTEE ON MISCELLANEOUS  
REVENUE MEASURES

NINETY-FIFTH CONGRESS

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OLC #78-23.2

June 9, 1978

STAT

[Redacted]  
Central Intelligence Agency  
Langley, Virginia

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Dear [Redacted]

This is in reply to your inquiry concerning Section 911 of the Internal Revenue Code. The Subcommittee on Miscellaneous Revenue Measures met in markup session on Monday, June 5, and Tuesday, June 6, 1978. All aspects of Section 911 were discussed on the first day. The staff of the Joint Committee on Taxation was asked to prepare draft proposals incorporating the most liberal proposals from five measures. These are: the Tax Reform Act of 1976, the Administration's proposals, bills by Representatives Crane, Jones and Holland (H.R. 11057, H.R. 11065, and H.R. 11459, respectively), proposals by Representative Pickle and the Senate version of H.R. 9251.

On the second day, the Subcommittee continued to review a series of proposals in each of the areas shown on Table 3, pages 16 and 17 of a 40-page pamphlet entitled Taxation of Americans Working Abroad (Sections 911 and 912 of the Code) prepared by the staff of the Joint Committee on Taxation, May 15, 1978. In addition, the Subcommittee also reviewed six pages of draft proposals prepared by the staff of the Joint Committee on Taxation as requested on the previous day and incorporating the most generous aspects of the five measures.

In regard to cost-of-living deductions, the Subcommittee adopted the Crane, Jones and Holland proposal, using Washington, D.C. as a base for the cost-of-living differential.

With reference to deductions for education, the Subcommittee adopted the Crane, Jones and Holland proposal limiting travel expenses to coach fare when available.

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With reference to deductions for housing, home leave, rest and recreation, and moving expenses, the Subcommittee adopted the Crane, Jones and Holland proposal.

Regarding suspension of the period to reinvest proceeds from the sale of a residence, (Section 1034 of the Code), the Subcommittee adopted the Crane, Jones and Holland proposal.

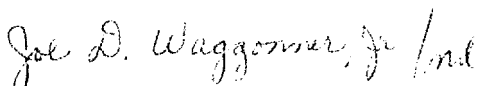
As for meals and lodging furnished by employer, the Subcommittee adopted the Crane, Jones and Holland proposal with the Lederer amendment expanding the definition of camp. This "camp" modification by Mr. Lederer would exclude Canada and Western Europe.

The Subcommittee took no position on hardship locations and certain industries and employees of charities.

For a flat exclusion, the Subcommittee adopted the Crane, Jones and Holland proposal with an amendment excluding Canada and Western Europe. The dollar limitations would ultimately be increased in the future to compensate for inflation.

The Subcommittee expects to reconvene in the near future in order to report these recommendations to the full Committee.

Sincerely,



Joe D. Waggoner, Jr.  
Chairman

JDW:jcd

Enclosures

## PROPOSALS RELATING TO SECTION 911

### I. Flat Exclusion

A. Crane, Jones, and Holland.--The earned income exclusion is restored to its levels prior to the 1976 Act (i.e., \$20,000 annually in general, and \$25,000 annually for persons who are bona fide foreign residents for 3 years or more). In addition, the dollar limitations would automatically be increased in the future to compensate for inflation.

#### B. Alternatives

- (1) Increase exclusion to \$50,000.
- (2) Exclude all foreign earned income of individuals qualifying under present section 911.

C. Special exclusion for hardship locations.--A special exclusion could be limited to hardship locations (see part IV).

### II. Foreign Living Cost Deductions

The following deductions could be provided for Americans working abroad:

#### A. Cost of living

- (1) Crane, Jones, and Holland.--Cost-of-living differential (as set forth in an IRS table guided by the State Department Index) for the taxpayer's foreign country in proportion to earned income (exclusive of of housing and education costs). Not allowed if qualify for the exclusion of employer-provided housing and meals (sec. 119).

#### (2) Alternatives

(a) Senator Bartlett (S. 2529, as revised).--Same as above, but cost-of-living amount proportional to "U.S. base salary" (i.e., the amount the taxpayer would be paid for performing the services in the U.S. for a 40-hour work week).

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- (b) Senate bill.--Cost of living differential (excluding housing and education) in the particular foreign place for families of various sizes with an income of \$22,000, adjusted for inflation (GS-12, step 1).

B. Housing

- (1) Crane, Jones and Holland.--The excess of the reasonable cost of housing over 16-2/3 percent of the taxpayer's "base compensation" for pension purposes. If he does not participate in a pension plan, the excess of actual housing costs over 10 percent of the taxpayer's earned income minus actual housing costs and the other deductions allowed under the bills. The taxpayer may deduct the full cost of his foreign housing if he lives in housing separate from his family because of adverse living conditions at his place of work or for the convenience of his employer.
- (2) Alternatives: Senate bill and Administration proposal.--The excess of housing costs over one-sixth (16-2/3 percent) of the taxpayer's net income subject to tax.

C. Educational expenses

- (1) Crane, Jones and Holland.--The reasonable cost of education through secondary school for dependents. The cost of nonlocal travel and room and board are deductible if there is no adequate United States-type school within a reasonable commuting distance.

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- (2) Alternative.--The Administration proposal limits education costs (other than travel) to \$4,000 per student.

D. Home leave

- (1) Crane, Jones, and Holland.--The cost of one round-trip fare every year for each member of the taxpayer's family between his principal place of work and a place in the United States approved by his employer (if any).
- (2) Alternative.--The Administration proposal allows the cost of one economy class round trip to the taxpayer's U.S. residence (or most recent U.S. residence) every other year.

E. Rest and Recreation

Crane, Jones, and Holland.--Travel costs for the taxpayer's family from a hardship post to any place in the world approved by the employer, to the extent that the costs are reimbursed by the employer and are attributable to the taxpayer's employment in an area with adverse living conditions or which is remote or isolated.

F. Moving expenses

Crane, Jones, and Holland.--For international moves, increase the period during which the cost of temporary living arrangements is deductible from 30 days to 90 days, and raise the ceiling on those costs from \$1,500 to \$4,500. (The Administration would increase these limits to 60 days and \$5,000.) Moving expenses will include the cost of storing goods while abroad.

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G. Sale or exchange of residence.--

Crane, Jones, and Holland; Administration.--Suspend the running of the 18- or 24-month period for reinvestment of proceeds realized on the sale of a principal residence for up to 4 years while the taxpayer is working abroad.

III. Meals and lodging furnished by employer--Camps

- A. Crane, Jones, and Holland.--Expand the scope of the exclusion (under section 119) for meals and lodging provided by the employer to meals and lodging provided by a third party "pursuant to" the employment and would cover the taxpayer's spouse and dependents as well (this would also apply to domestic situations). Also, employees abroad could exclude the value of "camp style" meals and lodging even if the general requirements of section 119 are not met.

Lodging is camp-style if either--

- (1) two or more unrelated employees are required by the employer to share the same living quarters, or
- (2) the lodging is furnished in a common area (not available to the public) which normally accommodates ten or more employees in connection with (i) the design or construction of a facility located outside

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the United States, (ii) the exploration for, or development or production of, natural resources located outside the United States, or (iii) the installation, maintenance or operation of export property.

Meals are camp-style if--

- (1) they are furnished in a common eating area which normally serves 10 or more individuals and is not available to the public, and
- (2) the employee is furnished camp-style lodging.

B. Alternatives

- (1) Administration.--The Administration's definition of a "camp" is substandard housing, remote from urban areas and as close as practicable to the job site, which consists of a multifamily enclave. There must be no alternative housing available and the housing must be constructed solely for employees, not as housing for the open market.
- (2) Lederer.--The definition of "camp" in the Crane, Jones, and Holland bills would be expanded to include, ~~in hardship locations,~~ situations where housing is not provided in a common area but where--
  - (a) the housing is assigned on the basis of family size or other non-income, nonjob description bases;
  - (b) the employer assigns housing to 100 or more employees in the immediate geographic area;

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- (c) the employees live in housing occupied solely by U.S. citizens or residents and their families (this includes single-family or multi-unit dwellings).

#### IV. Hardship Locations

Special treatment could be provided for employees in hardship locations. For this purpose, a hardship location could include any foreign country (or area within a foreign country) designated by the Secretary of Treasury as a place with adverse or substandard living conditions. However, certain areas could be excluded; for example, no designation as a hardship location could be made with respect to Australia, New Zealand, Hong Kong, Japan, South Africa, or any country in Western Europe or the Sino-Soviet block. In designating hardship locations, reference may be made to the State Department designations of hardship posts for the hardship post allowance paid to government employees.

#### V. Certain Industries and Employees of Charities

Special treatment could be provided for employees of certain industries and for charitable employees.

- A. Charities.--The Tax Reform Act of 1976, as reported by the Ways and Means Committee and as passed by the House, would have generally phased out the earned income exclusion but the exclusion would have been permanently retained at \$20,000 for overseas employees of U.S. charities.
- B. Construction and engineering workers.--The House-passed bill also provided that, during the phaseout period, engineering or construction workers employed on a project to build or construct a permanent facility outside the United States for unrelated parties were to be entitled to the full \$20,000 or \$25,000 exclusion. The Ways and Means Task Force on Foreign Source Income recommended that that exclusion be made permanent for construction and engineering workers.

[COMMITTEE PRINT]

**TAXATION OF AMERICANS  
WORKING ABROAD**  
(Sections 911 and 912 of the Code)

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PREPARED FOR THE  
**COMMITTEE ON WAYS AND MEANS**  
BY THE STAFF OF THE  
**JOINT COMMITTEE ON TAXATION**



MAY 15, 1978

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